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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,351	02/26/2002	Peter Cripps	MAGN002/01US	9717
5073	7590	05/10/2006	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			AGHDAM, FRESHTEH N	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/082,351

Applicant(s)

CRIPPS ET AL.

Examiner

Freshteh N. Aghdam

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-22.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see the attachment.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed on 04/17/2006 have been fully considered but they are not persuasive.

Applicant's Argument(s): On pages 11-12, applicant argues that the claimed invention is not taught or suggested by Zhang et al (US 6,369,758) "receiving a plurality of data signals and a plurality of pilot signals on a plurality of antenna elements, each data signal from the plurality of data signals being uniquely associated with a pilot signal from the plurality of pilot signals, each pilot signal from the plurality of pilot signals having a first characteristic and a second characteristic." On page 12 applicant further argues "the training signal cited by the examiner is not a pilot signal as recited in claim 1. In fact, Zhang clearly distinguishes between a training signal and a pilot signal ... As such the two can not be equivalent."

Examiner's Response: Regarding the first argument (pages 11-12), Zhang teaches receiving a plurality of signals being received on a plurality of antenna elements may have the format as illustrated by Zhang in Fig. 2, wherein each data signal is associated with a unique pilot signal and as Zhang discloses in the description of Fig. 2, the signal format as illustrated in Fig. 2 is the preferred transmission frame format that Zhang's adaptive antenna array system works with. Even the signal according to the

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instant application comprises successively transmitted frames and that is the reason why in claim 4 of the instant application disclosed a beginning and an end indicator of the data signal. Moreover, it is inherent for a smart antenna based transceiver to receive lots of signals from other transmitters; therefore, one would clearly recognize that there would be some signal that has the format of Zhang's. Regarding the second argument (page 12), Zhang teaches identifying a first pilot signal (training symbols) from the plurality of pilot signals based on the first characteristic of the first pilot signal (i.e. autocorrelation characteristics of the training symbols) and adjusting the weight value associated with each antenna element from the plurality of antenna elements so that the second characteristic of the first pilot signal (training symbols) is substantially optimized (to receive the most preferable signal) with respect to the second characteristic of the remaining pilot signals (undesired signals) from the plurality of pilot signals (Col. 1, Lines 21-37; Col. 2, Lines 19-28; Col. 3, Lines 1-18; Col. 4, Lines 61-67; Col. 5, Lines ; Col. 6, Lines 41-44; Col. 15, Lines 51-55; Col. 18, Lines 1-18). Moreover, applicant fails to explain why and how the applicant's pilot signal is different from the training symbols of Zhang's in the claims. In fact, there is no description about the specifics of the applicant's pilot signal; therefore, examiner made the broadest reasonable interpretation of the pilot signal since in general a pilot signal is used for training purposes.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freshteh N. Aghdam whose telephone number is (571)


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272-6037. The examiner can normally be reached on Monday through Friday 9:00-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on (571) 272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Freshteh Aghdam
May 1, 2006


KEVIN BURD
PRIMARY EXAMINER